

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES R. MERCER, JR.,

Plaintiff,

vs

9:08-CV-537

T. BENSON, Correctional Officer, Wende C.F.;
T. HUNTER, Correctional Officer, Wende C.F.;
R.N.P. SMITH, Correctional Sergeant, Wende, C.F.;
RICHARD ROY, Inspector General, NYS DOCS;
DALE ARTUS, Superintendent, Clinton C.F.;
LINDA TURNER, Deputy Superintendent for
Program Services, Clinton, C.F.; VONDA
JOHNSON, Director of Facility Health Services,
Clinton C.F.; BRIAN LECUYER, Nurse Administrator,
Clinton C.F.; S. MILLER, Nurse Practitioner, Clinton,
C.F., and T. BROUSSEAU, Inmate Grievance Program
Supervisor, Clinton, C.F., Each sued in their Individual
and Official Capacities,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMES R. MERCER, JR.
87-C-0688
Wyoming Correctional Facility
P.O. Box 501
Attica, NY 14011
Plaintiff, *pro se*

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MICHAEL G. McCARTIN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, James R. Mercer, Jr., brought this civil rights action in March 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 14, 2009, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants' motion for judgment on the pleadings (Docket No. 49) be granted and that judgment be entered in favor of defendants Roy, Turner, and Artus, on all claims against them, and that the ADA claims be dismissed against all defendants. No objections to the Report-Recommendation were filed by the plaintiff.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Homer, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

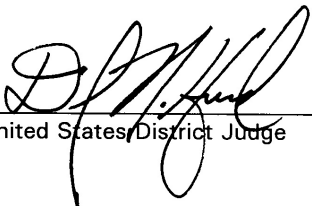
Accordingly, it is

ORDERED that

1. The defendants' motion for judgment on the pleadings is GRANTED as to defendants Richard Roy, Dale Artus, and Linda Turner, on all claims against them;
2. The plaintiff's ADA claims are DISMISSED against all defendants;
3. The Clerk is directed to enter judgment in favor of the defendants Roy, Artus, and Turner, dismissing the complaint as against them.
5. The above action is referred to the Honorable Victor Bianchini, Recalled United States Magistrate Judge, for the purposes of mediation. Any further proceedings are stayed pending the completion of mediation.

IT IS SO ORDERED.

Dated: September 23, 2009
Utica, New York.


United States District Judge

